

REMARKS

The Office Action dated September 5, 2007, has been received and carefully noted. The above amendments to the claims and the following remarks are submitted as a full and complete response thereto.

Claims 28, 31, 32, 36, and 41-57 have been amended to more particularly point out and distinctly claim the subject matter of the invention. Claim 58 has been added. No new matter has been added. Claims 28-58 are respectfully submitted for consideration.

In the interview summary, the Examiner asserted that the features upon which applicant relies are not recited in the rejected claims. Although the claims are interpreted in light of the specification, limitations from the specifications are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

The Office Action rejected claims 28-52 and 54 under 35 U.S.C. 102(e) as being anticipated by US Patent No. 7,068,189 to Brescia et al. (Brescia). Applicants respectfully submit that Brescia fails to disclose or suggest all of the features recited in any of the pending claims.

Independent claim 28, upon which claims 29-40 and 55 are dependent, recites a method that includes determining profile reception capabilities of a mobile terminal. The method also includes allocating a profile to a specific event. The method additionally includes detecting an association of the mobile terminal with said event. The method

further includes based on the determining, transmitting said profile to said mobile terminal.

Independent claim 41, from which claims 42-53 depend, is directed to an apparatus that includes a determining server is configured to determine profile reception capabilities of a mobile terminal. The apparatus also includes a first communications interface is configured to provide a mobile network with event specific information. The apparatus additionally includes a second communications interface is configured to receive details of a mobile terminal associated with the event specific information. The apparatus further includes a third communications interface is configured to transmit an event specific profile to the mobile terminal associated with the event specific information.

Independent claim 54 is directed to a system that includes an application server is associated with an event and is further configured to determine profile reception capabilities of a mobile terminal. A mobile communication network is configured to receive event specific characteristics from the application server. At least one mobile terminal is configured to connect to the network. The mobile network notifies the application server if the mobile terminal is associated with the event, and when responsive thereto the application server transmits the event specific profile to the mobile terminal.

Independent claim 58 recites an apparatus that includes determining means for determining profile reception capabilities of a mobile terminal. The apparatus also

includes first communications interface means for providing a mobile network with event specific information. The apparatus additionally includes second communications interface means for receiving details of the mobile terminal associated with said event specific information. The apparatus further includes third communications interface means for transmitting the event specific profile to the mobile terminal associated with an event specific information.

As will be discussed below, it is respectfully submitted that each of the above claims recites features that are neither disclosed nor suggested in Brescia.

Brescia generally describes delivering information, such as a notification or other content, to a select communication device when defined event and location criteria are satisfied. A profile is established to define the event and location criteria along with a method for delivering the information. Specifically, Brescia states “a profile that defines information to provide to a select device is transmitted, when predefined events and location indicia are satisfied, wherein the profile is stored on an application server.” See column 4, lines 46-50, of Brescia. Thus, the “profile” is sent to an application server and not to a device. Further, the “information” that is sent to a select device, such as a notification or other content, is not a “profile” as defined in the present claimed invention. Thus as previously discussed, according to Brescia, the profile is not sent to a device, only the resulting “information”, if a match occurs. The “information” sent to the user device is a “simple notification, preselected-content, or a combination thereof” and not a profile. See column 4 lines 48-50, of Brescia.

It is respectfully submitted that Brescia fails to disclose or suggest at least the feature of transmitting said profile to said mobile terminal, as recited in claim 28 and similarly recited in claims 41 and 54. As discussed above, Brescia merely discloses sending “information” to the appropriate device, if the event occurrence and location indicia match the event and location criteria.

In the “Response to Arguments” section, the Office Action appears to appreciate the difference between a “profile” and “information” as described in Brescia. However, the Office Action also asserts that the information transmitted to the device, may optionally include a profile. However, we believe that the Office Action’s position inappropriately ignores the meaning of the term “profile” as defined in the present application and inappropriately reads features into Brescia that are not described therein. For example, the feature “profile” as clearly recited in the present claims and described in the specification, is directed to customized affects such as the “look and feel” of the user device. This “profile” feature is clearly described in the present specification at least in paragraphs [0002], [0004], [0006], [0033], [0038], and [0039] of the published present application.

MPEP 2111.01 (IV) describes that “where an explicit definition is provided by the applicant for a term, that definition will control interpretation of the term as it is used in the claim. *Toro Co. v. White Consolidated Industries Inc.*, 199 F.3d 1295, 1301, 53 USPQ2d 1065, 1069 (Fed. Cir. 1999) (meaning of words used in a claim is not construed in a “lexicographic vacuum, but in the context of the specification and drawings”). In

this case, the word “profile” is defined in the specification. Therefore, the Examiner **must** accept Applicants’ definition. (Emphasis Added).

MPEP 706 IV and 37 CFR 1.112 describe that “after reply by applicant or patent owner (1.111 or 1.945) to a non-final action and any comments by an inter partes reexamination requester (1.947), the application or the patent under reexamination will be **reconsidered and again examined.**” (Emphasis Added). As noted above, the rejection does not satisfy the requirement set forth under MPEP 706 (IV) and 37 CFR 1.112. Furthermore, because no meaningful response to the above distinctions has been presented, the burden has not yet shifted to Applicants to establish an unobvious difference. However, if such were required, the above explanation of the difference between what is claimed, and what the Office Action asserted was inherently taught should suffice to carry Applicants’ burden.

Further, the Office Action’s explanation reads features into Brescia that are neither disclosed nor suggested therein. For example, the Office Action alleged that Brescia describes “transmitting the profile to the mobile, the information is sent to the selected device, not the server”. However, Applicants respectfully submit that this description is nowhere to be found in Brescia, and is an unreasonably broad interpretation of what is actually disclosed therein.

MPEP 704.14(b) describes that “the **Examiner must consider the information submitted with Applicants’ reply** and apply the information as the Examiner deems appropriate. This obligation arises from the Examiner’s assertion that the information is

necessary to the examination in making the requirement. Information constituting identification of areas of search must be considered and the examiner must indicate which areas were used and which areas were not used in performing a search. This indication may be placed in the file wrapper search notes, or may be made by notations on the applicant's reply, with the examiner's initials and date, and with a notation in the file wrapper search notes that searching based on the 37 CFR 1.105 requirement was made according to the notes on the applicant's reply.” (Emphasis Added).

In the Applicants’ previous reply, Applicants submitted that the description of “transmitting the profile to the mobile, the information is sent to the selected device, not the server” is nowhere to be found in Brescia. However, the Office Action failed to consider Applicant’s reply, and the Office Action did not provide any reasons why Brescia fails to disclose or suggest this feature. Thus, this error should be deemed admitted.

Further, Applicants respectfully submit that Brescia fails to disclose or suggest at least the feature of “determining profile reception capabilities of a mobile terminal,” as recited in claims 28, 41, and 54. Applicants respectfully submit that Brescia is silent with regards to this feature. In Brescia the information is transmitted to the device without a determination being made as to the device’s capabilities.

On page 3, the Office Action took the position that column 3, lines 5-59, of Brescia describes “determining profile reception capabilities of a mobile terminal.” However, the cited portion merely describes that the email server is capable of sending

email to devices receiving email via the circuit-switched networks 14. Brescia does not disclose or suggest any determining profile reception capabilities of a mobile terminal. Thus, Brescia fails to disclose or suggest, at least, “determining profile reception capabilities of a mobile terminal,” as recited in claims 28, 41, and 54.

Thus, at least for the reasons discussed above, Applicants submit that Brescia fails to disclose or suggest all of the features recited in claims 28, 41 and 54. Applicants further submit that because claims 29-40 and 49-52 depend from claims 28 and 41, these claims are allowable at least for the same reasons as claims 29 and 41, as well as for the additional features recited in these dependent claims.

Based at least on the above, Applicants submit that Brescia fails to disclose or suggest all of the features recited in claims 28-52 and 54. Accordingly, withdrawal of the rejection under 35 U.S.C. 102(e) is respectfully requested.

The Office Action rejected claim 53 under 35 U.S.C. 103(a) as being obvious over Brescia. The Office Action took the position that Brescia disclosed all of the features of these claims except the third interface being a GPRS or Bluetooth interface. The Office Action took Official Notice that this feature is well known in the art. This rejection is respectfully traversed. Specifically, Applicants submit that Brescia is deficient at least for the reasons discussed above regarding claim 41.

Further, Applicants respectfully traverse the Office Action’s use of Official Notice. Applicants again, respectfully request evidence that the use of GPRS or a

Bluetooth interface is well-known in the art when applied as a third interface to an application server.

Based at least on the above, Applicants submit that Brescia and the Official Notice taken in the Office Action, fail to disclose or suggest all of the features of claim 53. Accordingly, withdrawal of the rejection under 35 U.S.C. 103(a) is respectfully requested.

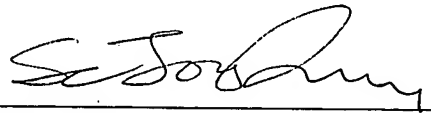
As stated above, new independent claim 58 has been added. Applicants respectfully submit that claim 58 recites features that are neither disclosed nor suggested in Brescia.

Applicants submit that each of claims 28-58 recites features that are neither disclosed nor suggested in any of the cited references. Accordingly, it is respectfully requested that each of claims 28-58 be allowed, and this application passed to issue.

If for any reason the Examiner determines that the application is not now in condition for allowance, it is respectfully requested that the Examiner contact, by telephone, the applicant's undersigned attorney at the indicated telephone number to arrange for an interview to expedite the disposition of this application.

In the event this paper is not being timely filed, the applicant respectfully petitions for an appropriate extension of time. Any fees for such an extension together with any additional fees may be charged to Counsel's Deposit Account 50-2222.

Respectfully submitted,



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Enclosures: Additional Claim Fee Transmittal
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